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DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 55 (Sub-No. 788X)]

CSX Transportation, Inc.—Abandonment Exemption—in Preston County, W. Va.

CSX Transportation, Inc. (CSXT), has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon an approximately 6.78-mile rail line between milepost BAJ 3.0 and milepost BAJ 9.78 in Preston County, W. Va. (the Line).¹ The Line traverses U.S. Postal Service Zip Codes 26764 and 26537 and includes the stations of Murphy Mine, Stoer, Shatzer, and Preston.

CSXT has certified that: (1) no local freight traffic has moved over the Line for at least two years; (2) any overhead traffic on the Line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period;

¹ The Line was part of a 14.3-mile line of railroad between milepost BAJ 0.0 at Rowlesburg and milepost BAJ 14.3 near Albright in Preston County, W. Va., that CSXT was previously authorized to abandon. CSX Transp., Inc.—Aban. Exemption—in Preston Cty., W. Va., AB 55 (Sub-No. 625X) (STB served Jan. 9, 2004). However, CSXT did not timely file a notice of consummation of abandonment for the 6.78 miles that comprise the Line and the abandonment authority automatically expired. CSX Transp., Inc.—Aban. Exemption—in Preston Cty., W. Va., AB 55 (Sub-No. 625X) (STB served Dec. 18, 2018).

and (4) the requirements at 49 C.F.R. § 1105.7 and 1105.8 (environmental report and historic report), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA)² has been received, this exemption will be effective on April 12, 2019,³ unless stayed pending reconsideration. Formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2)⁴ must be filed by March 22, 2019. Petitions to stay that do not

² The Board modified its OFA procedures effective July 29, 2017. Among other things, the OFA process now requires potential offerors, in their formal expression of intent, to make a preliminary financial responsibility showing based on a calculation using information contained in the carrier's filing and publicly available information. See Offers of Financial Assistance, EP 729 (STB served June 29, 2017); 82 Fed. Reg. 30,997 (July 5, 2017).

³ Although CSXT states in its verified notice that the proposed consummation date of this transaction is April 1, 2019, this transaction cannot be consummated until April 12, 2019 (50 days from the verified notice's filing date). See 49 C.F.R. § 1152.50(d)(2).

⁴ Each OFA must be accompanied by the filing fee, which is currently set at \$1,800. See 49 C.F.R. § 1002.2(f)(25).

(continued . . .)

involve environmental issues,⁵ and trail use/rail banking requests under 49 C.F.R.

§ 1152.29 must be filed by March 25, 2019. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by April 2, 2019, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to CSXT's representative, Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

CSXT has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by March 18, 2019. Interested persons may obtain a copy of the EA by writing to OEA (Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

⁵ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by CSXT's filing of a notice of consummation by March 13, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at www.stb.gov.

Decided: March 7, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.